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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,209	03/02/2004	Fuminori Suzuki	2018-854	1036
23117	7590	07/14/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			LE, DAVID D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/790,209

Applicant(s)

SUZUKI ET AL.

Examiner

David D. Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/02/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/790,209, filed on 02 March 2004. Claims 1-16 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
  - Foreign Priority Document, received on 03/02/04
  - Information Disclosure Statement, received on 03/02/04

### ***Claim Objections***

3. Claims 4-7 and 12-15 are objected to because of the following informalities:
  - Claims 4-7 and 12-15 contain the claimed limitation "the estimated variation", which should be --the estimated time variation--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**5. Claims 3-7 and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 3-7:

- Claim 3 recites the limitation "the target gear". There is insufficient antecedent basis for this limitation in the claim.
- Claim 5 recites the limitation "the corrected timing". There is insufficient antecedent basis for this limitation in the claim.
- Claim 6, line 3 recites the limitation "a target gear". It is unclear whether this target gear is different from the one, which is first recited on line 3 of claim 3.
- Claim 6, line 6 recites the limitation "the releasing-side frictional element". There is insufficient antecedent basis for this limitation in the claim.
- Claim 7, line 3 recites the limitation "a target gear". It is unclear whether this target gear is different from the one, which is first recited on line 3 of claim 3.

Claims 11-15:

- Claim 11, lines 3-4 recite the limitation "the target gear". There is insufficient antecedent basis for this limitation in the claim.
- Claim 12, lines 4-5 recite the limitation "if the estimated variation matches actual time variation". There is insufficient antecedent basis for this limitation in the claim.

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- Claim 13, line 5 recites the limitation "the corrected timing". There is insufficient antecedent basis for this limitation in the claim.
- Claim 14, line 3 recites the limitation "a target gear". It is unclear whether this target gear is different from the one, which is first recited on lines 3-4 of claim 11.
- Claim 14, lines 6-7 recite the limitation "the releasing-side frictional element". There is insufficient antecedent basis for this limitation in the claim.
- Claim 15, line 3 recites the limitation "a target gear". It is unclear whether this target gear is different from the one, which is first recited on lines 3-4 of claim 11.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 3, 8, 9, 11, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 5,086,670 to Nitz et al.**

**Claims 1, 3, 8, 9, 11, and 16:**

Nitz (i.e., Figs. 1a-11; column 2, line 59 – column 16, line 4) discloses an adaptive transmission shift pressure control with closed-loop compensation comprising:

- Means for adjusting a hydraulic pressure applied to at least one of the frictional elements according to a command value (i.e., column 8, line 60 – column 9, line 22);

- Means for detecting the applied hydraulic pressure (i.e., column 7, lines 9-47);
- Means for varying the command value given to the pressure adjusting means and for determining whether gear shifting is permissive based on time variation of the applied hydraulic pressure detected by the detecting means (i.e., column 7, line 34 – column 9, line 22); and
- Wherein the varying and determining means judges whether the gear shifting is permissive on the basis of a plurality of time variations obtained in a time series (i.e., column 7, line 34 – column 9, line 22).

#### *Allowable Subject Matter*

8. Claims 2, 4-7, 10, and 12-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Aoki et al. (U. S. Patent No. 4,942,787) teaches an apparatus for and a method of controlling hydraulic clutch operation in an automatic transmission as shown in Figs. 1-2.
- Pollack et al. (U. S. Patent No. 5,251,509) teaches an adaptive pressure control for an automatic transmission as shown in Figs. 1a and 1b.

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- Kull et al. (U. S. Patent No. 5,790,967) teaches an arrangement for controlling a frictional connection as shown in Fig. 1-2.
- Kashihara et al. (U. S. Patent No. 4,955,256) teaches a hydraulic control apparatus for controlling a hydraulically operated automatic transmission as shown in Fig. 1.
- Narita (U. S. Patent No. 4,845,618) teaches a hydraulic pressure control for reducing engagement shock of automatic transmission as shown in Fig. 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ddl

  
**RODNEY H. BONCK**  
**PRIMARY EXAMINER**  
**ART UNIT 3681**